IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

RPFC.No. 122 of 2003()

MC.110/2002 of FAMILY COURT, KOZHIKODE

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REVISION PETITIONER/RESPONDENT

SHAJI S/O. GOVINDAN, AGED 33 YEARS,
KORAYYINI COLONY, MOKAVOOR AMSOM DESOM,
KUNDUPARAMBA, KOZHIKODE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: PETITIONERS

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1. PUSHPA D/O. RAJAN,
AGED 31 YEARS, MUTHIRAKATHARA,
THARAMMAL, KANDAMKULANGARA,
ELATHUR AMSOM DESOM, KOZHIKODE.

2. SHERIL S/O. SHAJI
(2ND RESPONDENT/2ND PETITIONER IS REPRESENTED
BY GUARDIAN MOTHER - PUSHPA, THE 1ST RESPONDENT
HEREIN)

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

R.P.(FC) No.122 of 2003

Dated this the 23rd day of October, 2007

O R D E R

The revision petitioner is the respondent/husband in M.C.No.110/02 in the file of Family Court, Kozhikode in the proceedings initiated under Section 125 Crl.P.C. The revision petitioner is under orders to pay maintenance at the rate of Rs.500/- per month to the first petitioner and Rs.400/- per month to the second petitioner child.

2. It is the case of the petitioner that they got married on 16.5.1993 and that she was driven away from matrimonial home on 24.6.2001. It is alleged that he misappropriated her gold ornaments and money given to her at the time of marriage by her parents and that he again demanded Rs.15,000/- from the petitioner and that she used to be assaulted even in front of his relatives and that he has got illicit relationship with another lady. The respondent is getting a sum of Rs.175/- per day from his work as unskilled labourer. On the other hand, the respondent had denied the allegations that the first petitioner

used to abuse him in the presence of his neighbours and that he is a heart patient and that he is not looked after by the first petitioner and she used to ill treat him by calling him a Harijan and she will not cook for him as she is a member of higher caste. According to him on account of her ill treatment the family life has become impossible and that she left his residence in 1994 without any valid reason and thereafter she was brought back but again she left. He has denied that he is getting the income as alleged.

3. The evidence adduced in the matter consisted of the testimony of PW1 and RW1 the petitioner and respondent respectively and Exts. B1 to B1(C) the money order receipts.

4. It is noted by the court below that the MO receipts produced are dated 20.5.2002, 18.4.2002 and 20.3.2002 for Rs.500/-, Rs.450/- and Rs.400/- and altogether Rs.1,350/-. Evidently, MOs' were sent just before the filing of the petition and after the receipt dated 2.5.2002 there was no further remittances. Although, it is the case of the respondent/revision petitioner that on a number of occasions she was brought back at the intervention of the mediators. None of them were examined.

In view of the fact that the first petitioner has to maintain the child also and in view of the absence of any contention that she is having any income by her own, I find that it is to be believed that he has not made any attempt to settle the differences and bring back the wife and child. The circumstances also would indicate that she has left her matrimonial home on account of the circumstances therein. The respondent has not produced any evidence to show that he is suffering from heart decease. Evidently, it is admitted that he is a manual labourer. The amount ordered is at the rate of Rs.500/- and 400/-to the petitioners which cannot be said to be excessive. I find no reason to interfere in the findings of the Family Court.

The revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl